

Entered -05-08-01 - sb  
CL 00L0294 - GWENDOLYN BURNS

CLAIM OF:

**J. WESLEY DANIELS**  
P.O. Box 77065  
Atlanta, Georgia 30357

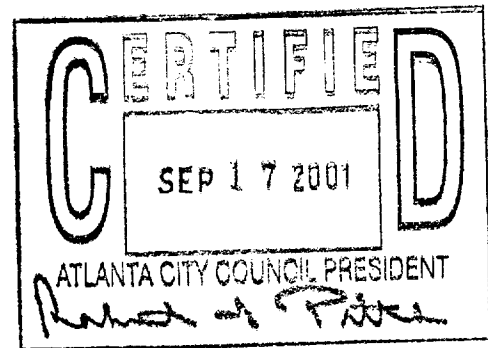
01- *R* -1408

For damages alleged to have been sustained when the City failed to obtain an easement to excavate a sewer line between February, 2001 and April 2001 at Cairo Street, NW Parcel (14-114-5-21).

THIS ADVERSED REPORT IS  
APPROVED

BY: *Rosalind Rubens Newell*  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

ADVERSE REPORT  
CITY COUNCIL SEP 17 2001



## ADVERSE REPORT

PUBLIC SAFETY &

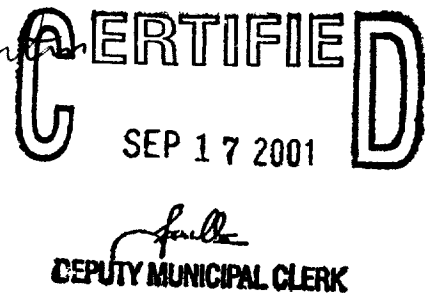
LEGAL ADMINISTRATION COMMITTEE

DATE: *Public Safety*

CHAIR: *9/17/01*

*Sherry Diney*  
*[Signature]*  
*[Signature]*  
*[Signature]*  
*[Signature]*  
*[Signature]*  
*[Signature]*

*C. T. Martin*





**CITY OF ATLANTA  
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK**

**55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103**

September 19, 2001

J. Wesley Daniels  
P.O. Box 77065  
Atlanta, Georgia 30357

**01-R-1408**

Dear Mr. Daniels:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on September 17, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

**cc: Claims Division/Law Department**

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0294

Date: August 24, 2001

Claimant /Victim J. WESLEY DANIELS  
BY: (Atty) (Ins. Co.) \_\_\_\_\_  
Address: P.O. Box 77065, Atlanta, Georgia 30357  
Subrogation: \_\_\_\_\_ Claim for Property damage \$ 2,000.00 Bodily Injury \$ \_\_\_\_\_  
Date of Notice: 5/8/01 Method: Written, Proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 2/01 - 4/01 Place: Cairo Street, NW Parcel (14-114-5-21)  
Department PUBLIC WORKS Division Technical Services  
Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: The claimant alleges that he sustained property damage by the City when it trespassed to replace a sewer line by entering the claimants' property without the claimants' consent. However, an investigation determined that the an easement to access the sewer line was obtained by the City in 1910 prior to claimant's ownership of the property.


INVESTIGATION:

Statements: City employee X Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral X  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other X  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other X Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent \_\_\_\_\_ Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ \_\_\_\_\_ Adverse X Account charged: 1A01 \_\_\_\_\_ 2J01 \_\_\_\_\_ 2H01 \_\_\_\_\_  
Claims Manager:  Concur/date 08-27-01  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

RCS# 3123  
9/17/01  
6:39 PM

Atlanta City Council

Regular Session

MULTIPLE  
01-R-1408

Unfavorable Claims; Items 20-59

ADOPT

YEAS: 12  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 3  
EXCUSED: 1  
ABSENT 0

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	NV Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	E Maddox	NV Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

MULTIPLE